

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON
3 UNITED STATES OF AMERICA,)
4 Plaintiff,) CR-11-385-HZ
5 vs.) November 17, 2011
6 RASHAD SANDERS,) Portland, Oregon
7 Defendant.)

8
9 TRANSCRIPT OF PROCEEDINGS

10 BEFORE THE HONORABLE DENNIS J. HUBEL

11 UNITED STATES DISTRICT COURT MAGISTRATE

12
13 APPEARANCES

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1 (November 17, 2011)

2 P R O C E E D I N G S

3 (Open court; defendant present:)

4 MR. STRICKLAND: Good afternoon, Your Honor. We
5 are on the record in United States versus Rashad Sanders.
6 That's case 11-385. The case is assigned to Judge
7 Hernandez. Kemp Strickland representing the Government
8 here. Ms. Russell is here on behalf of the defendant.
9 She is representing him. This is the time that
10 Ms. Russell has asked for a release hearing.

11 THE COURT: Thank you. Ms. Russell.

12 MS. RUSSELL: Thank you, Your Honor. That is
13 correct. At this time we are here. We have a pretrial
14 release proposal for the Court. In particular, we are
15 asking that Mr. Sanders be allowed -- be released from
16 custody pending trial; that he be released on strict
17 conditions; in particular, that he be directed to reside
18 with his mother. His mother is here, present in court,
19 and she is available to address the Court and the Court's
20 concerns. Also present is Mr. Sanders' aunt.

21 So the conditions would be that he would be
22 directed to reside at his mother's residence; that he
23 would comply with any restrictions, such as electronic
24 monitoring and home detention that the Court would impose
25 on the case to ensure Mr. Sanders' compliance; that he

1 would report, as directed, to pretrial service under both
2 the standard conditions and, again, any additional
3 conditions, including to have no contact with anyone
4 involved with this charge. I believe that's already been
5 a condition that the Court has imposed, but it certainly
6 would be an appropriate condition of his release as well.

7 I had a very quick opportunity to review the
8 Government's memorandum. I just received it a few minutes
9 ago. Quite a bit of the Government's memorandum addresses
10 the factual allegations in this case. We have yet to
11 receive discovery in this matter. We certainly have not
12 conducted any investigation, so I'm not in a position to
13 address those allegations obviously at this point.

14 But we do believe that Mr. Sanders has what I
15 would put as a minimal criminal record. He has a felony
16 conviction for delivery from sometime ago and a couple of
17 misdemeanor convictions. We believe he would be an
18 appropriate candidate, and I would encourage the Court to
19 release Mr. Sanders under those strict conditions that we
20 have proposed.

21 THE COURT: Mr. Strickland.

22 MR. STRICKLAND: Your Honor, I have provided a
23 memorandum. I don't know if the Court has had an
24 opportunity to review it.

25 THE COURT: I received it over the noon hour,

1 and I have read it.

2 MR. STRICKLAND: I apologize for it being so
3 late. It was difficult to put together in the short
4 amount of time I had. I think the thing that I would
5 stress about Mr. Sanders is that he, although his
6 conviction -- his number of conviction is his lower, he
7 has contacts with police and law enforcement and arrests
8 for the different crimes I describe in the memorandum, and
9 also in the exhibits, is extensive.

10 What I think is particularly troubling or
11 noteworthy is his contacts with adult women involved in
12 the sex trafficking industry and particularly the level of
13 violence he has inflicted on one particular woman
14 described in the memorandum and on other minors that are
15 described in that memorandum.

16 So I view Mr. Sanders as a prolific sex
17 trafficker, someone that has existed within the community
18 for quite some time now. I see no change in his behavior
19 over the period of time that he has been supervised and
20 all of these acts occurred during his period of
21 supervision. This 2008 case is an older case involving
22 minors, but I can tell you there are other cases under
23 investigation.

24 So based on my memorandum and the facts that I
25 have put there, as well as the exhibits that I have

1 provided to the Court from his previous probation officers
2 and his conduct on supervision, Mr. Sanders is clearly a
3 danger to the community. He is a danger to women and a
4 danger to children. And based on his criminal history, he
5 is a danger and a flight risk. He is looking at a very,
6 very lengthy sentence in this case. For those reasons,
7 Your Honor, I would ask that he be held in custody.

8 THE COURT: Okay. Ms. Russell.

9 MS. RUSSELL: Thank you, Your Honor.

10 THE COURT: In looking at this, one of the
11 things that concerns me about your proposal is, it looks
12 like from the pretrial services' report, that he has been
13 living with his mother or father the entire time this
14 record has been amassed, and that these events that are
15 recounted in the government's memorandum opposing release
16 took place while he has been living right where you say
17 you want him to live now. Why will things change?

18 MS. RUSSELL: Well, if the Court had the concern
19 that that residence isn't appropriate, and again, as I
20 say, we are talking allegations here -- only
21 allegations -- then we would propose to the Court that an
22 alternative would be for Mr. Sanders to be released to the
23 halfway house. That would be a very structured -- it
24 would be a different residence. It would be a residence
25 that would have an incredible amount of monitoring both in

1 terms of drug and alcohol testing, in terms of his
2 whereabouts, requirements to do a job search, to comply,
3 and curfew and those kind of matters. It would be very,
4 very restrictive.

5 THE COURT: Does the halfway house take people
6 with charges like this?

7 PRETRIAL SERVICES REPRESENTATIVE: Clackamas
8 County Corrections said they would house an individual
9 with sex offenses. There is a percentage number, so would
10 I have to check with them.

11 THE COURT: Why would this record suggest that
12 he is a good risk to suddenly change this pattern of
13 behavior that's recounted here?

14 MS. RUSSELL: Well, I guess we have two things:
15 One, we have allegations; and two, we have a criminal
16 record. It is our position to the Court at this time that
17 Mr. Sanders is capable of complying. According to the
18 Government, these matters have been under investigation,
19 and indeed the allegations here date from many years ago.
20 So Mr. Sanders has remained in the community; he hasn't
21 taken off. Certainly if he does not comply with
22 conditions, Clackamas County Halfway House will be the
23 first person to let the Court know, and he can be taken
24 back into custody. I believe he will comply. I believe
25 that he is capable of complying. We have an individual,

1 and we have a number of allegations that have been
2 unsubstantiated.

3 THE COURT: That creates a presumption against
4 release.

5 MS. RUSSELL: Well, they certainly are cause for
6 concern. I agree with the Government, in fulfilling its
7 responsibilities to have a look at them, but I believe,
8 given the minimal criminal record that we have, and this
9 individual's ties to the community, the serious charge
10 that he is facing, and the importance that he understands
11 in complying with all conditions of release, that we have
12 an individual that will not be engaged in criminal
13 conduct, will show up to his court appearance and will
14 participate in a meaningful manner and all restrictions
15 and obligations and programming that Clackamas County
16 Halfway House presents to him.

17 THE COURT: My question though is, with the
18 presumption, it seems like it is incumbent upon the
19 defendant to come forward with some evidence to rebut the
20 presumption to create some question that would overcome
21 that presumption, and I am looking at this record, and I
22 am wondering what piece of evidence is it within the
23 record that you would suggest presents him in a positive
24 light.

25 MS. RUSSELL: I have his mother and aunt here

1 who are able to address the Court, and I would ask the
2 Court defer to see if his mother could address the Court.
3 That having been said, I would like to kind of back up on
4 one issue. We are sort of in a Catch-22. When
5 allegations that have not been substantiated, have not
6 proceeded to convictions, are just allegations out there
7 that have been accumulated through the years, it creates a
8 very difficult situation in terms of an individual trying
9 to address those issues. As I said, we haven't received
10 discovery yet. Probably some of the issues we won't be
11 able to address until some time down the road in this
12 case, as we are approaching trial. So in terms of
13 Mr. Sanders being in a position to present evidence and
14 simply have a full-blown sort of contested hearing about
15 each and every allegation that's in this case, it puts him
16 and myself at a difficult situation.

17 THE COURT: I understand that. Much of this
18 record, though, deals with a lot of historical things that
19 aren't the allegations leading to these particular
20 charges. I am not seeing a history of compliance with
21 conditions of supervision. I am not seeing a history of
22 someone who gets the message and starts to conform their
23 conduct to what society expects. What I'm saying is the
24 opposite, is a person who basically says: Go to hell; I
25 am going to do what I want to do. That's what it looks

1 like in this record. It is very difficult to see where
2 the evidence is that would suggest that he is going to
3 suddenly have this change of heart and comply with
4 conditions of release.

5 MS. RUSSELL: If I could.

6 THE COURT: Go ahead.

7 MS. RUSSELL: I will call forth Mr. Sanders'
8 mother to come forward and make her comments.

9 THE COURT: Please. Did you want to put her on
10 the witness stand?

11 MS. RUSSELL: My proposal is not, unless the
12 Government would so like.

13 MR. STRICKLAND: I would prefer to have her on
14 the stand, Your Honor, if she is going to testify or talk
15 about things here.

16 MS. RUSSELL: Okay. If I could have a moment.

17 THE COURT: You may. Let me know when you are
18 ready.

19 Step forward, ma'am, and I will place you under
20 oath. If you could please raise your right hand and
21 repeat this oath after me.

22 (The witness was duly sworn.)

23 THE COURT: Please take the witness stand to my
24 left. After you are seated, I will have you scoot up to
25 the microphone and adjust its height for you. Then state

1 your full name and spell your last name for the record.

2 THE WITNESS: Marilyn Ann Lindsay.

3 L-I-N-D-S-A-Y.

4 THE COURT: Thank you. Your witness, Counsel.

5 MS. RUSSELL: Thank you.

6 DIRECT EXAMINATION

7 BY MS. RUSSELL:

8 Q Ms. Lindsay, what is your relationship to Rashad?

9 A He is my son.

10 Q Are you employed?

11 A Yes, I am.

12 Q Can you tell us where you work?

13 A For the Department of Justice for the State of
14 Oregon.

15 Q And how long have you worked there?

16 A 23 and a half years.

17 Q And what is your current position with the Department
18 of Justice?

19 A Child support case agent.

20 Q Ms. Lindsay, you were present throughout your son's
21 release hearing today; is that correct?

22 A Yes.

23 Q And have you heard the Court express his concerns
24 about Mr. Sanders being released?

25 A Yes.

M. Lindsay - Direct

1 Q Without going into the various arrests or allegations
2 against Mr. Sanders, can you tell the Court or help to
3 address the Court's issues here today about why it is that
4 you believe Mr. Sanders will comply with the Court's
5 conditions upon his release and why he would be a good
6 candidate for release.

7 A Well, I have spoken -- not just because of this
8 issue -- but I addressed this repeatedly with him. First
9 of all, I would like to clarify. He was living with his
10 dad, and he would only come stay with me if he happened to
11 be in my neighborhood. It wasn't like he was living with
12 me, okay. So I would like to clarify that.

13 I know that for these last -- I say this last
14 four visits I have had with him, he has confided in me how
15 remorseful he is about what's going on here. So I know
16 that Rashad is a good candidate for this apprenticeship
17 program. I'm also having contact with him, and he also
18 wants to get enrolled back in that program. I know he is
19 a very, very good candidate for that.

20 Q Can you tell us about the apprenticeship program?
21 What is that about?

22 A The apprenticeship program is a funded program by the
23 federal government. It helps young people like Rashad and
24 other young members of the community, and they put them
25 into a program. They go through a six-week training. It

M. Lindsay - Direct

1 is for electrician. It could be for a roofer. It could
2 be for construction work. So it is at their own
3 discretion of what they want to choose and to enter into.

4 Once they go through the program, they get paid
5 on a daily basis, a daily program from 8:00 to 3:00,
6 Monday through Friday. Like I said, it is for six weeks.
7 They have a lot of employers who are construction workers
8 who come in, view the applicants, who are the students,
9 and then hire them on because they get an incentive from
10 the Government to hire these people. So this is a
11 program. He is ready and willing to go into.

12 Q And has, to your knowledge, Mr. Sanders applied to
13 this program?

14 A Yes, he has.

15 Q Has he been accepted to the program?

16 A Yes, he has.

17 Q Do you know when he could begin that program if he
18 were released?

19 A I believe the middle of December when the program
20 starts.

21 Q And do you know what the formal name of the program
22 is?

23 A Oh, my gosh. I don't have it by memory. I just have
24 so much going through my head right now. I can't recall
25 it off the top of my head right now. I'm sorry. I

1 apologize.

2 Q That's okay. Ms. Lindsay, did you play a role with
3 your son in getting him enrolled in that program?

4 A Yes, I did.

5 Q Can you tell us what your role in that was?

6 A My role is just not to help my son, but it was very
7 empowering for me to help him, because I see he wasn't
8 working. He was getting frustrated with not being
9 employed. He was going to school there for a minute,
10 going to Mt. Hood Community College. It was a lot of not
11 doing anything with his life.

12 I wanted to see him make something better with
13 his life. He couldn't get a job because of his
14 background. I told him the only option he would have is
15 to go into this apprenticeship program, which I got
16 communication from another resource, which is why I'm able
17 to help people like himself to get into the program.

18 Q The apprenticeship program is a community-based
19 program; is that correct?

20 A Yes, it is.

21 Q Do you know what area of town they are based in?

22 A Yes. It is on Northeast Ninth. Ninth Avenue.

23 Q Ms. Lindsay, if your son, Mr. Sanders, was released
24 from custody and you learned of any information or any
25 information came to your attention indicating to you that

M. Lindsay - Direct

1 Mr. Sanders was not complying with any of the conditions
2 of his release, would you contact the authorities to
3 report that?

4 A Immediately. And not to say that just because he is
5 my son, but I have had friends that I tried to help, and I
6 have offered this same service to them. They did a
7 wonderful job in completing the program in my home.

8 MS. RUSSELL: Thank you. I have no further
9 questions.

10 THE COURT: Cross-examination.

11 MR. STRICKLAND: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. STRICKLAND:

14 Q Just a couple of questions: When exactly,
15 Ms. Lindsay, did you apply for this program?

16 A Well, it has been a while. I would say about two
17 months. You have to wait like three months. It is every
18 three months that they enroll applicants for the program.
19 I can provide you with that information.

20 Q So did your son know at the time that you had applied
21 for him?

22 A Oh, yeah. He knew probably about three months ago.
23 But the program hasn't started, as I told you, until
24 December.

25 Q That was a time when he was out of custody?

1 A Yes.

2 Q So you were applying for that program when he was out
3 of custody?

4 A That's correct. You have to apply for it and then
5 they wait to go into the training.

6 Q Has he been approved?

7 A Yes.

8 Q When was that?

9 A Oh, gosh. I want to say at least a month ago, maybe
10 two months ago, because it is not that you just get
11 approved. You go to the place. You sign up. You take a
12 test or do whatever you need to do. And then they set you
13 up and enroll you, and you come back for the training,
14 which is in December. Then you come back for the
15 training.

16 Q So he was approved while he was in custody?

17 A No, not in custody.

18 Q He has been in custody --

19 A Right.

20 Q -- for the last two months?

21 A No, no, no. This happened before he was in custody.

22 Q But you said he was approved in custody?

23 A No, no, no. I am sorry. I didn't hear you. No, no,
24 no. He wasn't approved while he was in custody. He had
25 been approved like in maybe June, because the program is

1 like every three months. So you have to wait three months
2 in order to get to the program.

3 Q You are aware of his prior criminal history then?

4 A I know somewhat of his history when he was on
5 probation at the Southeast 122nd location.

6 Q You know he was on probation for about five years or
7 so. You know that, right?

8 A I don't know how long it was, but I know he was on
9 probation.

10 Q Were you aware that he has had so many different
11 problems complying with probation?

12 A He had the problems. I also intervened because of
13 the issue with his probation officer, because there was a
14 specific incident where he was on a Max, and he got off
15 the Max and there was a problem there. I also intervened
16 with his probation officer as to why he wasn't complying
17 and showing up for them as well for those visits.

18 Q The question was: Were you aware of all the
19 different non-compliant issues?

20 A Oh, definitely.

21 Q So then you know that in the past --

22 A I didn't know it was that many.

23 Q You didn't know it was that many?

24 A Oh, heck no.

25 Q Did you know that he had said things to his probation

1 officer, like he hoped that person would be killed in a
2 car accident on the way home?

3 A I would never know anything like that. I'm not in
4 the meeting with him.

5 Q That he threatened to find the PO's address and
6 provide it to the worst sex offender and send the sex
7 offenders to their house to molest the PO and their
8 children. Did you know that?

9 A How would I know that.

10 Q I'm just asking if you did.

11 A No. I wouldn't have known anything. They won't
12 disclose any of those statements or interviews with me.

13 Q So with respect to your son, did you know that he was
14 arraigned last Friday?

15 A Yes. But I wasn't able to make it.

16 Q You didn't make it?

17 A Right.

18 Q Do you know what any of his conditions were while he
19 is remaining in custody with respect to this case?

20 A No, not in general.

21 Q Do you know whether or not he was required or
22 supposed to contact the minor victims that are alleged in
23 the indictment?

24 A I'm sorry. What was that?

25 Q Do you know whether or not he is allowed to contact

1 the minor victims in the indictment?

2 A He shouldn't be. I don't know what the indictment or
3 anything says, but I assume he shouldn't be contacting
4 nobody.

5 Q You believe that a judge might order that?

6 A He wouldn't have to order it. I would order it. He
7 wouldn't contact those people, because that wouldn't be
8 right, especially if they are victims, or assumed victims.
9 I wouldn't allow it.

10 Q Did you meet with him on Sunday?

11 A Yes, I did.

12 Q Did you talk with him?

13 A Yes. Uh-huh.

14 Q Do you have a daughter?

15 A Yes.

16 Q What's her name?

17 A I have three daughters.

18 Q What are their names?

19 A Shakina, Damorsha and Shawala (phonetic).

20 Q Do you know if your son instructed your daughter
21 Shakina to contact the minors in Minnesota?

22 A No, not at all.

23 Q I'm sorry?

24 A No.

25 Q He did not?

1 A No, not at all. I don't know anything, no.

2 THE COURT: Your answer is you don't know one
3 way or the other whether he did that?

4 THE WITNESS: I'm saying I don't know.

5 THE COURT: Correct. That's what I understood
6 you to say.

7 BY MR. STRICKLAND:

8 Q So you would not have had a conversation with your
9 daughter Shakina about that?

10 A No. Why would -- I'm sorry. No.

11 Q You wouldn't?

12 A No.

13 Q And then you wouldn't have told him that she had
14 contacted those minors or made contact with them?

15 A No.

16 MR. STRICKLAND: All right. That's all the
17 questions I have.

18 THE COURT: Ms. Russell. Anything further?

19 MS. RUSSELL: No, Your Honor. Thank you.

20 THE COURT: Thank you, ma'am. You may step
21 down. Any other testimony for the defendant?

22 MS. RUSSELL: No, Your Honor.

23 THE COURT: Okay. Any other argument from
24 counsel for either side?

25 MR. STRICKLAND: I have a witness, Your Honor.

M. Lindsay - Cross

1 THE COURT: Okay.

2 MR. STRICKLAND: I call Agent Halpin.

3 THE COURT: Come forward, please, ma'am. I will
4 swear you in as a witness.

5 (The witness was duly sworn.)

6 THE COURT: Once you are seated and adjusted the
7 microphone, please state your full name for the record and
8 spell your last name.

9 THE WITNESS: Masayo Halpin. M-A-S-A-Y-O,
10 H-A-L-P-I-N.

11 THE COURT: Thank you. Your witness, Counsel.

12 DIRECT EXAMINATION

13 BY MR. STRICKLAND:

14 Q Agent Halpin, who do you work for?

15 A I work for the Federal Bureau of Investigations.

16 Q And what are your duties there?

17 A I am the innocence lost task force coordinator. I
18 work human trafficking, specifically minor victims of sex
19 trafficking.

20 Q Are you working on the case involving Rashad Sanders?

21 A Yes, I am.

22 Q And have you had an opportunity to look at the
23 government's memorandum filed today?

24 A Yes, I have.

25 Q And did you also have an opportunity to review a

1 stack of reports regarding information contained in the
2 exhibits about other minor victims in the memorandum?

3 A Yes.

4 Q With respect to Ms. Lindsay, were you able to review
5 jail recorded conversations between her and her son,
6 Rashad Sanders?

7 A Yes.

8 Q Were you also able to hear jail-recorded
9 conversations between Shakina, his sister, your daughter,
10 and Rashad Sanders?

11 A Yes.

12 Q And based on those conversations were you able to
13 find out whether or not Rashad Sanders instructed his
14 sister, Shakina, to contact the minors in Minnesota?

15 A Yes.

16 Q What did you find out?

17 A He asked his sister to get his cell phone and find
18 the number and contact them and talk to them, and she,
19 through her mother, did make contact with them and
20 everything was taken care of.

21 Q So did you hear a conversation between Ms. Lindsay
22 and her son describing whether or not that contact took
23 place?

24 A Yes.

25 Q And what do you remember hearing in that

1 conversation?

2 A I believe Mr. Sanders asked Ms. Lindsay if it was
3 taken care of, and she stated, yes, that her daughter had
4 taken care of it and had made a call to one of the girls
5 in Minnesota and that she was waiting for a call back.

6 MR. STRICKLAND: All right. That's all the
7 questions I have.

8 THE COURT: Cross-examination.

9 MS. RUSSELL: Yes, thank you.

10 CROSS-EXAMINATION

11 BY MS. RUSSELL:

12 Q These conversations you are referring to, they are
13 recorded conversations?

14 A Yes.

15 Q Those were conversations that took place at the
16 Inverness Jail; is that correct?

17 A They were recorded through Multnomah County Detention
18 Center. I'm not sure if it was Inverness or downtown.

19 Q Okay. Are we talking about multiple conversations?

20 A Yes.

21 Q And do you know what date these conversations took
22 place?

23 A I believe the two conversations that were the visits
24 that discussed making contact with the victims were
25 November 6th, and then it would have been this past

1 Sunday. I can't think of the date right off.

2 Q Those were telephone conversations or they were
3 recorded visits?

4 A They were visits.

5 Q And who were those visits between?

6 A Mr. Sanders, Ms. Lindsay and her daughter -- her
7 daughter. I don't know the name -- Sha --

8 MR. STRICKLAND: Shakina.

9 THE WITNESS: Shakina.

10 BY MS. RUSSELL:

11 Q Those three individuals were present at both the
12 November 6th visit and the one last Sunday?

13 A No, I believe the one last Sunday was just
14 Ms. Lindsay, but they were all present at the
15 November 6th visit.

16 Q And the conversation about asking -- in which
17 Mr. Sanders supposedly asked his sister, Shakina, to get
18 the number from his cell phone, is that a conversation
19 that you are referencing that took place on
20 November 6th in a personal visit at the jail?

21 A Yes.

22 Q The other conversation you are referencing, where I
23 think in your words you paraphrased, "everything was taken
24 care of," that took place last Sunday?

25 A Yes. That was the more recent visit.

1 Q The conversations that you are referring took place
2 during those two visits, is that correct, or are there
3 other conversations, for example, by phone that you are
4 referencing?

5 A No. I'm talking about the two visits.

6 MS. RUSSELL: If I could have a moment. I have
7 no other questions. Thank you.

8 THE COURT: Anything further?

9 MR. STRICKLAND: Nothing further, Your Honor.

10 THE COURT: You may step down.

11 THE WITNESS: Thank you.

12 THE COURT: Any other witnesses for the
13 government?

14 MR. STRICKLAND: No, Your Honor.

15 THE COURT: Any other evidence from the
16 defendant?

17 MS. RUSSELL: No, Your Honor.

18 THE COURT: Okay. Any more argument? I'll
19 start with the Government.

20 MR. STRICKLAND: Your Honor, the presumption is
21 against his detention. As the Court pointed out --

22 THE COURT: Against his detention?

23 MR. STRICKLAND: Against his release, I'm sorry.
24 As the Court pointed out, my memorandum suggests that
25 there hasn't been anything offered here to rebut that

1 presumption or to provide evidence to the Court. It is
2 quite troubling, too, that Mr. Sanders has already
3 violated the conditions this Court provided him or gave
4 him on Friday, a condition I specifically asked for,
5 because knowing his history and background and
6 characteristics, knew he would try to reach out to these
7 victims, and that's exactly what he did. I would ask that
8 he be held in custody pending trial.

9 THE COURT: Ms. Russell.

10 MS. RUSSELL: Thank you, Your Honor. We would
11 ask that Mr. Sanders be released and be released to reside
12 at a halfway house; that he be allowed to participate in
13 the apprenticeship program. We have referenced two
14 conversations that took place. By my calculations, the
15 first conversation, assuming that it does -- I'm going to
16 withdraw my comments on that. We would simply ask that
17 Mr. Sanders be released under the strict conditions that
18 we have proposed.

19 THE COURT: The burden in this situation, with
20 the presumption that the charges carry with them, is on
21 the defendant to come forward with some evidence
22 indicating that he is not a danger to the community and
23 not a risk of non-appearance. I don't have any evidence
24 from which I can draw that conclusion, even though the
25 burden of persuasion remains on the government with the

1 benefit of the presumption. They have carried that burden
2 of persuasion. Quite frankly, they carried it before we
3 got into the issue about the attempted contact, and
4 perhaps now successful contact with the minor victims.
5 That only made it much more difficult for the defendant to
6 convince this Court that he is anything but a danger to
7 the community.

8 So I'm going to order that he continue to be
9 detained until trial. Nothing precludes the defendant,
10 however, from asking the Court to review that if he has
11 new information to present at a later time. As you
12 suggested in part of your comments, Ms. Russell, you might
13 be able to address things more fully when you have got
14 discovery in the case and started down the road of your
15 investigation. If you want to come back to Court at some
16 point, you certainly can. But the order of the Court
17 today is that he is going to be detained and that the
18 prior rulings stand; that he is both a danger and a risk
19 of non-appearance.

20 Let me just address one other thing,
21 Mr. Sanders. I don't want any misunderstandings between
22 you and I at all. If you ask anyone to do anything to
23 communicate with the victims -- alleged victims of this
24 crime -- you are violating the order of this Court, and I
25 would hope that any judge that you come before that hears

1 evidence of that, such as I have heard here today, would
2 take it into serious consideration and evaluate very
3 seriously and closely, whether there is any conditions you
4 are willing to abide by. You won't even apparently abide
5 by conditions when you are in custody. So why a judge
6 would believe you would adhere to conditions when you are
7 out of custody is very hard for this judge to understand.
8 Now, I hope you get the message: Knock it off.

9 That's all.

10 MR. STRICKLAND: Thank you, Your Honor.

11 (End of proceedings.)

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I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-entitled cause. A transcript without an original signature is not certified.

/s/ Dennis W. Apodaca
DENNIS W. APODACA, RMR, FCRR, RPR
Official Court Reporter

November 30, 2011
DATE